

persons who begin commercial manufacture, import, or processing of a significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the final SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

## VI. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance subject to this rule. EPA's complete economic analysis is available in the public record for this final rule (OPPTS-50611).

## VII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPPTS-50611) which includes information considered by the Agency in developing this rule. The record includes the following information:

1. The economic analysis of this rule.
2. The environmental test data review support document.
3. Issue Summary Report.
4. The **Federal Register** notice pertaining to this rule.

A public version of the record, without any Confidential Business Information, is available in the TSCA Nonconfidential Information Center (NCIC) from 12 noon to 4 p.m., Monday through Friday, except legal holidays. The TSCA NCIC is located in Rm. NE-B607, 401 M St., SW., Washington, DC.

## VIII. Regulatory Assessment Requirements

### A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of

Management and Budget (OMB)). Under section 3(f), the Executive Order defines a "significant regulatory action" as an action likely to lead to a rule:

(1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health of safety, or State, local or tribal governments or communities (also referred to as "economically significant").

(2) Creating serious inconsistency or otherwise interfering with an action taken or planned by another agency.

(3) Materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof.

(4) Raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not "significant" and is therefore not subject to OMB review.

### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has determined that approximately 10 percent of the parties affected by this rule could be small businesses. However, EPA expects to receive few significant new use notices for these substances. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUR notice submitters were small firms.

### C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), and have been assigned OMB control number 2070-0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: May 5, 1995.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Accordingly, 40 CFR part 721 is amended as set forth below:

## PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.5540 to subpart E to read as follows:

### § 721.5540 1H,3H,5H-oxazolo [3,4-c] oxazole, dihydro-7a-methyl-

(a) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substance identified as 1H,3H,5H-oxazolo [3,4-c] oxazole, dihydro-7a-methyl- (PMN P-91-1324) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(2)(iii) and (a)(3).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (where N = 500 ppb).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* The following recordkeeping requirements specified in § 721.125 (a), (b), (c), (d), (e), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 95-12142 Filed 5-17-95; 8:45 am]

BILLING CODE 6560-50-F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 217 and 227

[Docket No. 950427119-5314-02; I.D. 051195A]

RIN 0648-AH98

### Sea Turtle Conservation: Restrictions Applicable to Shrimp Trawling Activities; Modification of Additional Turtle Excluder Device Requirements Within Certain Statistical Zones

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Modification of temporary requirements; request for comments.

**SUMMARY:** NMFS is modifying the temporary requirements effective April 30, and published on May 3, 1995, to protect sea turtles from shrimp trawling activities in some portions of the Gulf of Mexico. This modification to the temporary requirements is being made to ease a burdensome requirement on shrimp trawlers while still providing protection for sea turtles. The modification partially rescinds the temporary prohibition on the use of try nets by shrimp trawlers in the areas subject to the temporary requirements, unless the try nets are equipped with NMFS-approved TEDs other than soft or bottom-opening TEDs, by allowing try nets with a headrope length of 12 feet (3.6 m) or less and a footrope length of 15 feet (4.5 m) or less to be used without a TED installed. All other requirements, including the boundary of the affected areas remain unchanged.

**DATES:** This action is effective May 12, 1995 through 11:59 p.m. (local time) on May 29, 1995. Comments on this action must be submitted by June 12, 1995.

**ADDRESSES:** Comments on this action and requests for a copy of the environmental assessment (EA) prepared for this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Oravetz, 813-570-5312, or Russell Bellmer, 301-713-1401.

**SUPPLEMENTARY INFORMATION:**

On April 30, 1995 (60 FR 21741; May 3, 1995), temporary requirements were placed on shrimp trawling in nearshore waters along two sections of the Texas and Louisiana coast in order to conserve listed species of sea turtles, especially the severely endangered Kemp's ridley. These requirements were necessitated by the continued high rates of sea turtle strandings occurring along areas of the Texas coast, and the measures implemented were consistent with NMFS' November 14, 1994 Biological Opinion on the shrimp trawl fishery and the NMFS Shrimp Fishery Emergency Response Plan (ERP). The ERP was signed by the Assistant Administrator for Fisheries, NOAA, (AA) on March 14, 1995 and was immediately distributed widely among industry and environmental groups. A notice of availability for the ERP was published on April 21, 1995 (60 FR 19885).

A complete discussion of sea turtle strandings in Texas was contained in the temporary requirements (60 FR 21741; May 3, 1995), and a summary of strandings is provided here. For the 3 consecutive weeks beginning April 9 and ending April 29, strandings in Zone 20 were 3, 3, and 15 turtles per week. Of these 21 turtles, 7 were Kemp's ridleys. In Zone 18 for the same period, 12, 16, and 6 turtles stranded per week. Of these 34 turtles, 28 were Kemp's ridleys. Restrictions to the shrimp fishery went into effect on April 30, 1995, and in the following week strandings fell to 2 turtles, including 1 Kemp's ridley, in Zone 20, but rose to 8 turtles, including 5 Kemp's ridleys in Zone 18. With the exception of Zone 20 during the week following implementation of the restrictions, all these strandings approach or exceed the incidental take levels (ITLs) established for those zones.

The Biological Opinion provides that conservation measures be implemented as mortality levels approach ITLs established in the Incidental Take Statement in order to ensure that shrimp fishing is not likely to jeopardize the continued existence of Kemp's ridley. The Biological Opinion specifically provides that such measures be implemented immediately when sea turtle takings, indicated or documented, reach 75 percent of the established levels. The conservation measures are intended to allow shrimp fishing to continue while reducing the likelihood of further sea turtle strandings. The ERP provides further guidance on the nature and geographic scope of such measures.

A description of the sea turtle stranding events, temporary requirements, and the areas in which they apply are detailed in the temporary requirements (60 FR 21741; May 3, 1995) and are not repeated here.

Pursuant to 50 CFR 227.72(e)(2)(ii)(B)(1), try nets of up to 20 feet (6.1 m) in headrope length have been exempted from the TED requirements, because they are only intended for use in brief sampling tows not likely to result in turtle mortality. Turtles are, however, caught in try nets, and either through repeated captures or long tows, try nets can contribute to the mortality of sea turtles. Takes of sea turtles in try nets, including one mortality, have been documented by NMFS, and in the NMFS bycatch observer program from 1992 through 1995, try nets accounted for 43% of the observed turtle captures.

**Preliminary Comments**

NMFS made the ERP available to all concerned parties for their information

and to solicit comments on the ERP. NMFS distributed the ERP widely among shrimp industry and environmental organizations immediately upon the ERP's completion in March, 1995. In addition, formal notice of availability for the ERP was published on April 21, 1995 (60 FR 19885). Furthermore, NMFS widely distributes weekly reports of stranding events and distributed the ERP implementation, in which fishermen were reminded of the specific restrictions that would be implemented if continued, elevated sea turtle strandings occurred. All of the restrictive measures imposed by NMFS in response to elevated sea turtle strandings were identified in the ERP and weekly implementation notices. Nonetheless, while NMFS received general comments regarding the necessity of the ERP, only one comment was received from any segment of the shrimp industry concerning the potential restrictions discussed in the ERP. This commenter objected to the possible restrictions on soft TEDs and asked that NMFS assess alternatives for flap restrictions. The required use of TEDs in try nets was acceptable and the commenter stated that many local fishermen already used TEDs in try nets. Among the general comments, NMFS has also received proposals from several segments of the shrimp fishery which contain alternative means to limit nearshore fishing pressure and resulting levels of turtle capture. NMFS is evaluating these proposals and may revise the ERP to incorporate the alternative conservation measures.

Since the temporary requirements have been implemented, however, NMFS has received numerous comments on this action. These have come primarily by telephone and at a meeting hosted by shrimp industry representatives and attended by the NMFS personnel on May 5, 1995. Although the official comment period for the April 30, 1995 temporary requirements does not end until May 27, 1995, NMFS believes that the overwhelming number of comments regarding a particular aspect of the restrictions warrants immediate agency response.

Many shrimpers have stated that the prohibition on all try nets without TEDs is unreasonable. Try nets are small nets that are intended for very short tows—usually less than 15 minutes—to sample shrimp abundance before or during trawling with the main nets. Shrimp fishermen have complained, however, that NMFS has not provided any alternative to the prohibition that would allow them to monitor their catch rates

and catch composition, forcing them to fish inefficiently, to their own detriment and that of turtles. NMFS now believes that the prohibition of all try nets is burdensome and that an alternative exists that will allow fishermen to work efficiently, while reducing the likelihood of turtle entrapment in shrimp trawl gear.

#### Alternatives for Try Net Use

Under the existing sea turtle conservation regulations, try nets with a headrope length of 20 feet (6.1 m) or less are exempt from the required use of TEDs. A 20-foot (6.1-m) headrope try net can have a fairly wide spread of 15 to 16 feet (4.5 to 4.8 m), and its mouth may open up several feet (approx. 1 m) off the bottom. By attaching extra webbing called a "tongue" or a "bib" to the center of the headrope and attaching an additional towing wire to this bib, the try net's mouth can be made to open even higher. These large try nets are certainly capable of capturing sea turtles. Indeed, a 20-foot (6.1-m) try net is little different from the 25- and 30-foot (7.6- and 9.1-m) headrope length nets that are commonly used as main trawl nets on smaller trawlers, and which are subject to TED requirements. The larger try nets are also capable of retaining larger catches, which may provide an incentive to tow them for longer periods, increasing the possibility of lethally taking a sea turtle. NMFS originally allowed the try net TED exemption based on the presumption that try nets would be fished for no more than 20-30 minutes.

As the size of the try net decreases, so does the potential for adversely affecting sea turtles. A small try net, with a headrope length of 12 feet (3.6 m), would only have a spread of about 8-9 feet (2.4-2.7 m) and would only open 1-2 feet (0.3-0.6 m) high. Such a net would also have a very small tail bag to accumulate shrimp catch, and there would be little incentive to use it longer than necessary to monitor shrimp catch rate. NMFS believes that a try net of this size is less likely to capture a sea turtle, and is unlikely to be fished long enough to kill a turtle if it were captured. This size net, however, would still be large enough for shrimp trawlers to monitor their shrimp catch rates.

In order to provide an alternative that will allow fishermen to sample their shrimp catch rates, while providing sea turtles with needed protection from entrapment in shrimp trawl nets, NMFS is partially rescinding the prohibition on the use of try nets without a top-opening, hard TED installed. The temporary prohibition on the use of try nets, unless equipped with NMFS-

approved TEDs other than soft or bottom-opening TEDs, as described in the temporary requirements (60 FR 21741; May 3, 1995) is being modified and still apply to try nets with a headrope length greater than 12 feet (3.6 m) or a footrope length greater than 15 feet (4.5 m). However, try nets with a headrope length of 12 feet (3.6 m) or less and a footrope length of 15 feet (4.5 m) or less may be used without a TED installed. Footrope length is defined in 50 CFR 217.12 as "the distance between the points at which the ends of the footrope are attached to the trawl net, measured along the forwardmost webbing." Headrope length is defined in 50 CFR 217.12 as "the distance between the points at which the ends of the headrope are attached to the trawl net, measured along the forwardmost webbing." Any bibs or tongues added to a net would be included in the measurement and add to overall headrope length.

This modification to the temporary requirement affects only the prohibition relating to try nets. The other prohibitions, the affected area, and the effective dates remain unchanged. For clarity, however, all the restrictions in effect, including the one modification, will be set forth in the requirements section below.

#### Requirements

This action is authorized by 50 CFR 227.72(e)(6). The definitions in 50 CFR 217.12 are applicable to this action, as well as all relevant provisions in 50 CFR parts 217 and 227. For example, § 227.71(b)(3) provides that it is unlawful to fish for or possess fish or wildlife contrary to a restriction specified or issued under § 227.72(e)(3) or (e)(6).

NMFS hereby notifies owners and operators of shrimp trawlers (as defined in 50 CFR 217.12) that, starting May 12, 1995, and ending 11:59 p.m. (local time) on May 30, 1995, fishing by shrimp trawlers in offshore waters, seaward to 10 nm (18.5 km) from the COLREGS line, along 2 sections of the Texas and Louisiana coast, the first bounded between 27° N. lat. and 28° N. lat. and the second bounded between 95°13' W. long. and 93°20.5' W. long., is prohibited unless shrimp trawlers comply with the following restrictions to the exceptions for incidental taking in 50 CFR 227.72(e):

1. Use of soft TEDs described in 50 CFR 227.72(e)(4)(iii) is prohibited.
2. Use of hard TEDs with bottom escape openings and special hard TEDs with bottom escape openings is prohibited. Approved hard TEDs and special hard TEDs must be configured

with the slope of the deflector bars upward from forward to aft and with the escape opening at the top of the trawl.

3. Use of try nets with a headrope length greater than 12 ft (3.6 m) or a footrope length greater than 15 ft (4.5 m) is prohibited unless a NMFS-approved top-opening, hard TED or special hard TED is installed when the try nets are rigged for fishing. Try nets with a headrope length 12 ft (3.6 m) or less and a footrope length 15 ft (4.5 m) or less are exempt from the TED use requirement in accordance with the specifications of 50 CFR 227.72(e)(2)(ii)(B)(I).

4. Use of a webbing flap that completely covers the escape opening in the trawl is prohibited. Any webbing which is attached to the trawl, forward of the escape opening, must be cut to a length so that the trailing edge of such webbing does not approach to within 2 inches (5.1 cm) of the posterior edge of the TED grid. The requirements for the size of the escape opening are unchanged.

All provisions in 50 CFR 227.72(e), including, but not limited to 50 CFR 227.72(e)(2)(ii)(B)(I) (use of try nets), 50 CFR 227.72(e)(4)(iii) (approval of soft TEDs), 50 CFR 227.72(e)(4)(i)(F) (position of escape opening), and 50 CFR 227.72(e)(4)(iv)(C) (webbing flap), that do not conform to these requirements are hereby suspended for the duration of this action.

Owners and operators of shrimp trawlers in the area subject to restrictions that they may be required to carry a NMFS-approved observer aboard such vessel(s) if selected to do so by the Director, Southeast Region, NMFS, (Regional Director) upon written notification sent to either the address specified for the vessel registration or documentation purposes, or otherwise served on the owner or operator of the vessel. Shrimp trawlers must comply with the and conditions specified in such written notification.

#### Additional Conservation Measures

The AA may withdraw or modify the requirement for specific conservation measures or any restriction on shrimping activities if the AA determines that such action is warranted. Notification of any additional sea turtle conservation measures, including any extension of this 30-day emergency action, will be published in the **Federal Register** pursuant to 50 CFR 227.72(e)(6).

#### Classification

Because neither section 553 of the Administrative Procedure Act (APA), nor any other law requires that general notice of proposed rulemaking be published for this action, and under

section 603(b) of the Regulatory Flexibility Act, an initial Regulatory Flexibility Analysis is not required.

This action has been determined to be not significant for purposes of E.O. 12866.

Pursuant to section 553(b)(B) of the APA, the AA finds there is good cause to waive prior notice and opportunity to comment on this action. It is unnecessary because this action is in response to comments received on the temporary requirement published May 3, 1995 (60 FR 21741). It is also impracticable and contrary to the public interest because current restrictions placed upon fishermen are unnecessarily burdensome, and any delay in this action imposes additional unnecessary fishing restrictions.

Because this rule relieves a restriction, under section 553(d) of the APA a 30-day delay in effective date is not required.

The AA prepared an EA for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and establishing the 30-day notice procedures. An EA has been prepared for this action. Copies of the EA and the supplemental EA are available (see ADDRESSES).

Dated: May 12, 1995.

**Gary Matlock,**

*Program Management Officer, National Marine Fisheries Service.*

[FR Doc. 95-12180 Filed 5-12-95; 3:47 pm]

BILLING CODE 3510-22-F

## 50 CFR Part 672

[Docket No. 95020641-5041-01; I.D. 050495A]

### Groundfish of the Gulf of Alaska; Vessels Using Hook-and-Line Gear

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is closing the entire Gulf of Alaska (GOA) to directed fishing with hook-and-line gear for all species that compose the "other hook-and-line gear fishery". This action is necessary because the bycatch allowance of Pacific halibut apportioned to the "other hook-and-line gear fishery" in the GOA for the 1995 fishing year has been caught.

**EFFECTIVE DATE:** 12 noon, Alaska local time (A.l.t.), May 18, 1995, until 12 midnight, A.l.t., December 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Andrew N. Smoker, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(f)(1)(ii)(A), the 1995 Pacific halibut bycatch allowance apportioned to the "other hook-and-line gear fishery," which is defined at § 672.20(f)(1)(ii)(B)(3), is 290 metric tons (60 FR 12149, March 6, 1995).

The Director, Alaska Region, NMFS, has determined in accordance with § 672.20(f)(3)(ii) that U.S. fishing vessels participating in the "other hook-and-line gear fishery" have caught the entire Pacific halibut bycatch allowance for 1995. Therefore, NMFS is closing the entire GOA to directed fishing with hook-and-line gear for each species and/or species group composing the "other hook-and-line gear fishery".

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

### Classification

This action is taken under 50 CFR 672.20 and is exempt from OMB review under E.O. 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 12, 1995.

**Richard W. Surdi,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 95-12212 Filed 5-17-95; 8:45 am]

BILLING CODE 3510-22-F

## 50 CFR Part 675

[Docket No. 950206040-5040-01; I.D. 051595C]

### Groundfish of the Bering Sea and Aleutian Islands Area; Sharpchin/Northern Rockfish Species Category in the Aleutian Islands Subarea

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is closing the directed fishery for the sharpchin/northern rockfish species category in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area

(BSAI). This action is necessary to prevent exceeding the sharpchin/northern rockfish species category total allowable catch (TAC) in the AI.

**EFFECTIVE DATE:** 12 noon, Alaska local time (A.l.t.), May 17, 1995, until 12 midnight, A.l.t., December 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Andrew N. Smoker, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii) the sharpchin/northern rockfish species category TAC for the AI was established by the final groundfish specifications (60 FR 8479, February 14, 1995) as 4,338 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the sharpchin/northern rockfish species category TAC in the AI soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 4,038 mt, with consideration that 300 mt will be taken as incidental catch in directed fishing for other species in the AI. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for the sharpchin/northern rockfish species category in the AI.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

### Classification

This action is taken under 50 CFR 675.20 and is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 15, 1995.

**Richard W. Surdi,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 95-12276 Filed 5-15-95; 2:15 pm]

BILLING CODE 3510-22-F